

Appeal No. 19,859

In the

United States Court of Appeals

For the Ninth Circuit

BRUNSWICK CORPORATION,
Appellant,

vs.

COLUMBIA INDUSTRIES, INC.,
Appellee.

COLUMBIA INDUSTRIES, INC.,
Appellant,

vs.

BRUNSWICK CORPORATION,
Appellee.

On Appeal from the United States District Court for the
Eastern District of Washington, Northern Division.

PETITION FOR REHEARING OF BRUNSWICK CORPORATION, APPELLANT.

BRUNSWICK CORPORATION,
By JOHN REX ALLEN,
Attorney for Appellant.

Of Counsel:

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FILED

JUN 16 1966

WM. B. LUCK, CLERK



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PETITION FOR REHEARING OF BRUNSWICK CORPORATION, APPELLANT.

To the Honorable J. Warren Madden, Judge of the United States Court of Claims, Frederick G. Hamley and Gilbert H. Jertberg, Circuit Judges:

Brunswick Corporation, appellant, respectfully petitions the Court to reopen and rehear the portion of the case which holds claims 12, 14, 15 and 16 of Patent No. 3,068,007 issued to Brunswick on December 11, 1962 as assignee of the inventor Fred E. Satchell are invalid for lack of invention.

The grounds relied upon for this petition for rehearing are the following:

The Court has overlooked the primary ground upon which the appeal herein was predicated, to-wit: a new and patentable product was obtained by the teaching of the patent in suit which for the first time provided a

bowling ball that had the necessary bowling characteristics *and* great esthetic appeal or beauty.

In support of this ground Brunswick cited cases which held that for a product to be patentable it was not necessary for the product to operate in a manner superior to that of the prior art (Opening Brief, p. 17) and that improved utility and patentability resulted from making a product which had greater appealability to the eye (Opening Brief, pp. 16-18). The Court in its opinion has completely ignored these points and has thereby impliedly reversed the substantial body of law in support thereof.

The decision of this Court erroneously states (p. 5) that Brunswick does not claim that its bowling ball has greater utility than the old black bowling ball. This is contrary to the argument referred to above and the cases in support thereof on which Brunswick has relied in support of its patent.

Brunswick is entitled to a rehearing to point out this serious attack on a well recognized body of law.

Respectfully submitted,

BRUNSWICK CORPORATION,
By JOHN REX ALLEN,
Attorney for Appellant.

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I hereby certify that in my judgment the above Petition for Rehearing of Brunswick Corporation, Appellant is well founded. It is not interposed for delay.

JOHN REX ALLEN.

Chicago, Illinois,

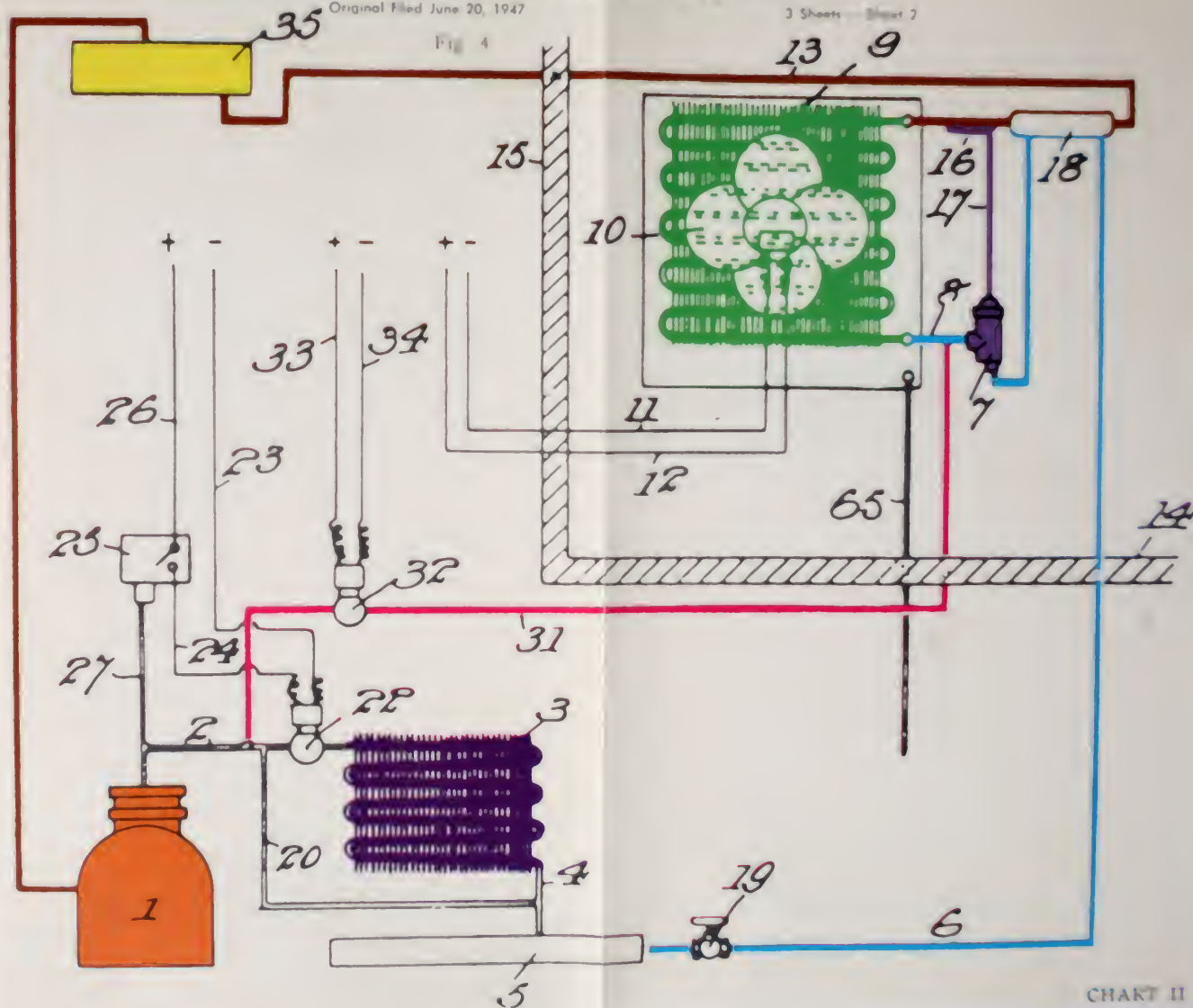
June 15th, 1966.

MEANS FOR CONTROLLING THE HEAD PRESSURE
IN REFRIGERATING SYSTEMS

Original Filed June 20, 1947

3 Sheets - Sheet 2

Fig. 4



EXH P
FIG 3
p.140
(AT)

